



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

2

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/310,740 05/13/99 BROWN

S 37-49

EXAMINER

HM12/0215

NIXON & VANDERHYE
1100 NORTH GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201

WILLIAMS, P.

ART UNIT

PAPER NUMBER

1616

DATE MAILED:

02/15/00

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/310,740	BROWN ET AL.	
	Examiner	Art Unit	
	Pernell V. Williams	1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

1) ☒ Responsive to communication(s) filed on 06 May 1999.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-36 is/are pending in the application.

 4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☒ Claims 1-36 are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

 a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:

 1. ☐ received.

 2. ☐ received in Application No. (Series Code / Serial Number) _____.

 3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

 * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

14) <input type="checkbox"/> Notice of References Cited (PTO-892)	17) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
15) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	18) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
16) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	19) <input type="checkbox"/> Other: _____

Art Unit: 1616

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-19 and 28-36, drawn to a method of coating, classified in class 424, subclass 468.
 - II. Claims 20-27, drawn to an apparatus for coating, classified in class 118, subclass 621.

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus can be used for providing solely inert ingredients (i.e.: flavoring) to a bioactive core.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Art Unit: 1616

2. A telephone call was made to Attorney Leonard Mitchard (#29,009) on 14 January 2000, that an oral election be made to the above restriction requirement, but did not result in an election.
3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pernell V. Williams, whose telephone number is (703) 308-4645. The examiner can normally be reached from 9AM to 4:30PM Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, José Dees, can be reached at (703) 308-4628. The fax phone numbers for

Art Unit: 1616

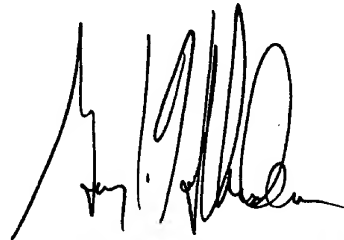
the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.



pvw
February 11, 2000

Examiner
Art Unit 1616



GARY E. HOLLINDEN, PH.D.
PRIMARY EXAMINER
GROUP 1200

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

EXAMINER'S CASE ACTION WORKSHEET

Application No.
09/310,740



Legal Instrument Examiner

CHECK TYPE OF ACTION

DATE OF COUNT

<input type="checkbox"/> Non-Final Rejection	<input checked="" type="checkbox"/> Restriction/ Election Only	<input type="checkbox"/> Final Rejection
<input type="checkbox"/> Ex Parte Quayle	<input type="checkbox"/> Allowance	<input type="checkbox"/> Advisory Action
<input type="checkbox"/> Examiner's Answer	<input type="checkbox"/> Reply Brief Noted	<input type="checkbox"/> Non-Entry of Late Paper
<input type="checkbox"/> Defective Notice of Appeal or Defective Appeal Brief	<input type="checkbox"/> Interference SPE _____ (Approval for Disposal)	<input type="checkbox"/> Suspension SPE _____ (initial)
<input type="checkbox"/> Allowance After Examiner's Answer	<input type="checkbox"/> SIR Disposal (use only after FAOM)	<input type="checkbox"/> Post-Allowance Communication
<input type="checkbox"/> Miscellaneous Office Letter (With Shortened Statutory Period Set)	<input type="checkbox"/> Notice of Non-Responsive Amendment (With One Month Time Period set)	<input type="checkbox"/> Miscellaneous Office Letter (No Response Period Set)
<input type="checkbox"/> Letter Requiring Formal Drawings	<input type="checkbox"/> Supplemental Action (Excluding Examiner's Answer)	<input type="checkbox"/> Response to a Rule 312 Amendment
<input type="checkbox"/> Restart Time Period (e.g., Missing References)	<input type="checkbox"/> Interview Summary	<input type="checkbox"/> Authorization to Change Previous Office Action SPE: _____ (Initial)
<input type="checkbox"/> Abandonment	<input type="checkbox"/> Express Abandonment Date: _____	<input type="checkbox"/> Abandonment After Examiner's Answer

Examiner's Name: Pernell V. Williams

AU: 1616